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**DATE:** January 23, 2007

**TO:** Examiner BELIVEAU, Scott E. **FAX NO.:** 571-273-8300  
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**FROM:** Jeffrey G. Toler  
Reg. No.: 38,342

**RE U.S. App. No.:** 10/696,395, filed October 29, 2003

**Applicant(s):** Larry B. Pearson, et al.

**Atty Dkt No.:** 1033-MS1001

**Title:** SYSTEM AND METHOD FOR LOCAL VIDEO DISTRIBUTION

**NO. OF PAGES (including Cover Sheet):** 16

### MESSAGE:

Attached please find:

- ☒ Transmittal Form (1 pg)
- ☒ Reply Brief to Examiner's Answer (14 pgs)

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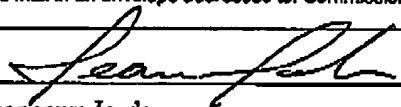
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**JAN 23 2007**

Attorney Docket No.: 1033-MS1001

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**Applicant(s): **Larry B. Pearson, et al.**Title: **SYSTEM AND METHOD FOR LOCAL VIDEO DISTRIBUTION**App. No.: **10/696,395**Filed: **October 29, 2003**Examiner: **BELIVEAU, Scott E.**Group Art Unit: **2623**Atty. Dkt. No.: **1033-MS1001**Confirmation No.: **6395**

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**BOARD OF PATENT APPEALS  
AND INTERFERENCES**United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450**REPLY BRIEF TO EXAMINER'S ANSWER**Jeffrey G. Toler; Reg. No. 38,342  
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**I. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

**A. Claims 1, 2, 4, 6-10, 20, 22, 24, 26-28, 34, 36, and 40** are rejected under 35 U.S.C. 103 (a) as being unpatentable over U.S. Patent No. 6,978,474 ("Sheppard") in view of U.S. Patent Application Publication No. 2005/0251827 ("Ellis").

**B. Claims 3, 5, 37, and 38** are rejected under 35 U.S.C. 103 (a) as being unpatentable over Sheppard in view of Ellis and further in view of U.S. Patent No. 6,762,733 ("Kolde").

**C. Claim 23** is rejected under 35 U.S.C. 103 (a) as being unpatentable over Sheppard in view of Ellis and further in view of Applicant's Admission of fact ("APA").

**D. Claims 29, 31-33, 39, and 41** are rejected under 35 U.S.C. 103 (a) as being unpatentable over Sheppard in view of Ellis and further in view of U.S. Patent Application Publication No. 2002/0078442 ("Reyes").

**E. Claim 21** is rejected under 35 U.S.C. 103 (a) as being unpatentable over Sheppard in view of Ellis and further in view of U.S. Patent No. 6,493,875 ("Eames").

**F. Claim 35** is rejected under 35 U.S.C. 103 (a) as being unpatentable over Sheppard in view of Ellis and further in view of U.S. Patent Application Publication No. 2003/0028872 ("Milovanovic").

**G. Claim 42** is rejected under 35 U.S.C. 103 (a) as being unpatentable over Sheppard in view of Ellis and further in view of Reyes.

**II. REPLY TO EXAMINER'S ARGUMENTS**

Various aspects of the Examiner's Answer dated November 29, 2006, are discussed below.

**A. Claims 1-10, 20-23, 25-29, and 31-42 are Allowable**

Appellant respectfully traverses the rejections set forth in Section I, Subsections A-G, above.

As explained previously, in the Brief in Support of Appeal filed October 25, 2006, neither Sheppard, nor Ellis, disclose or suggest the specific combinations of claims 1, 20, 29 and 40. For example, neither Sheppard, nor Ellis, disclose or suggest the following element of Claim 1:

a combiner operable to output a composite signal for communication via a premise network, the composite signal comprising a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user

In contrast to Claim 1, Sheppard discloses the modulation of multiple TV signals over separate channels via separate ports of a residential gateway device and a combiner to combine the TV signals for transmission over a single coaxial cable. (*See* Sheppard, col. 12, ll. 41-45). The TV signals are transmitted to various TV devices *irrespective* of the user or users that may be watching each of the TV devices. (Sheppard, col. 13, ll. 22-28). Further, in contrast to Claim 1, Ellis discloses centralized control of interactive television program guides at various set-top box devices within a household from a master set-top box device. (Ellis, para. [0072]). Ellis discloses an interface that associates each set-top box device with a particular *location* (living room, guest room, children's room), *irrespective* of the user or users who may actually be watching a television at each location. (*See* Ellis, [0092]). Neither Sheppard, nor Ellis disclose or suggest a decoded first video information stream *modulated to a first radio frequency band associated with a first user* and a decoded second video information stream *modulated to a second radio frequency band associated with a second user*, as recited in Claim 1.

With respect to Claim 1, the Examiner apparently acknowledges that neither reference discloses the element recited above. Hence, the Examiner argues that the claim is obvious based on what might be termed "the transitive property of association," as depicted in the table at page 23 of the Examiner's Answer. By demonstrating that Sheppard discloses associating a television with a frequency and by demonstrating that Ellis discloses associating a television with a user, the Examiner argues that he demonstrates a frequency associated with a user. To this end, the Examiner states:

- 1) "Sheppard clearly discloses a 'decoded first video frequency information stream modulated to a first radio frequency band...and a second video information stream modulated to a second radio frequency band.' " (Examiner's Answer, p. 21).
- 2) "Sheppard teaches that the particular frequency bands correspond to programming being distributed to particular televisions...." (Id.)
- 3) "Sheppard is silent with respect to the particular 'association' of users within a household to a particular television." (Id.)
- 4) "Ellis et al. clearly provides evidence of 'associating a television to a particular user....' " (Examiner's Answer, p. 23).
- 5) "Therefore, taken in combination, the references teach associating TVs with a frequency corresponding to a particular location associated with a particular user...thereby meeting the claimed limitation of associating users with frequencies in view of the combined teachings." (Id.)

Because there is no actual association between frequencies or televisions in Sheppard, or between televisions and users in Ellis, the Examiner stakes this already tenuous argument on an expansive and erroneous interpretation of the term "associated with." The Examiner asserts that an association between a user and a frequency is "reasonably interpreted as a particular user watching a particular television that receives

programming over a particular channel.” (Examiner’s Answer, p. 22). The Examiner states:

Therefore, in operation, a particular user watching a particular television is ‘associated with’... a particular television. A particular television being watched is ‘associated with’... a particular frequency/channel. Therefore, in light of the specification, a particular user is reasonabl[y] construed as being associated with or hav[ing] some relationship to a particular ‘channel’ by virtue of watching a particular television.

(Examiner’s Answer, p. 22).

The Examiner has erred in asserting that a user is associated with a television by virtue of watching it, and thus with a channel shown at the television, and still further with a frequency corresponding to the channel. A simple extension of the argument illustrates its logical flaw. If a second person is looking at the user, but cannot see the TV, the Examiner’s logic would dictate that the second person becomes ‘associated’ with the television, the channel, and the frequency, by virtue of looking at the user, who is allegedly associated with such things. This, of course, is irrational, because any association between the second person and the user ends with the user. The second person does not also become associated with the TV.

Likewise, whatever association the frequency might have with the TV, by virtue of being sent to the TV, ends at the TV. Whatever association the TV might have with the user, by virtue of the user watching the TV, ends at the TV. The TV is a node beyond which neither the frequency, nor the user, can extend in order to be associated with the other directly through the kind of experience (e.g., viewing) given by the Examiner’s definition of association. In other words, even if the frequency were associated with the TV, and the TV with the user, neither the frequency, nor the user, actually becomes equivalent to the TV, such that the frequency and the user are associated directly.



Moreover, the Examiner's argument belies the fact that Appellant has not merely claimed a set of associations. Rather, Claim 1 recites a combiner that outputs a composite signal that includes a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user. Even assuming that the Examiner's logic is correct, such logic would dictate, at best, that a radio frequency band would not become associated with a user until the user *actually viewed* a corresponding channel at a display device. In contrast, the *combiner*, as recited in Claim 1, is operable to *output* a composite signal that *already* comprises a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user.

Thus, even if the Examiner is correct in asserting that Sheppard and Ellis disclose or suggest associating radio frequency bands with respective users once the users actually view channels associated with the radio frequency bands, it remains true that Sheppard and Ellis do not disclose or suggest multiple radio frequencies that are associated with multiple respective users at the time that video information streams are modulated to the radio frequencies. Hence, Sheppard and Ellis do not disclose or suggest that the radio frequencies, to which the video information streams have been modulated, are associated with the respective users at the time that the combiner outputs the composite signal that includes the video information streams, as recited in Claim 1.

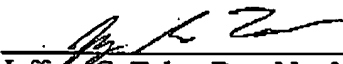
In view of the foregoing, and in conjunction with statements in Appellant's Brief in Support of Appeal, dated October 25, 2006, Appellant submits that Claim 1 is allowable. Additionally, as the Examiner has applied similar arguments against claims 20, 29 and 40, Appellant submits that claims 20, 29 and 40 are also allowable. Further, Appellant submits that all claims depending from claims 1, 20, 29 and 40 are allowable, at least by virtue of their dependencies from claims 1, 20, 29 and 40, as none of the remaining references cited by the Examiner cure the deficiencies of Sheppard and Ellis.

### III. CONCLUSION

For at least the above reasons, all pending claims are allowable and a notice of allowance is courteously solicited. Please direct any questions or comments to the undersigned attorney at the address indicated. Appellant respectfully requests reconsideration and allowance of all claims and that this patent application be passed to issue.

Respectfully submitted,

1-23-2007  
Date

  
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#### IV. CLAIMS APPENDIX

The text of each claim involved in the appeal is as follows:

1. (Previously Presented) A video distribution system comprising:
  - a receiver operable to receive a multiplexed signal comprising a plurality of encoded video information streams;
  - a first decoder communicatively coupled to the receiver and operable to decode a first video information stream of the multiplexed signal;
  - a second decoder communicatively coupled to the receiver and operable to decode a second video information stream of the multiplexed signal;
  - a combiner operable to output a composite signal for communication via a premise network, the composite signal comprising a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user;
  - a remote control mechanism operable to communicate a request signal to the first decoder requesting that the first decoder decode a different video information stream of the multiplexed signal; and
  - an access engine to authenticate that a user of the remote control mechanism is associated with the first radio frequency band.
2. (Original) The system of claim 1, further comprising:
  - a diplexer operable to distinguish between upstream and downstream communication flow, the diplexer further operable to output the multiplexed signal to the receiver; and
  - a modem communicatively coupled to the diplexer and operable to output data traffic to the diplexer.
3. (Original) The system of claim 1, wherein the remote control mechanism is further operable to communicate using a wireless local area network communication protocol.

4. (Original) The system of claim 1, further comprising a radio frequency communication module operable to support at least a portion of a communication path interconnecting the remote control and the first decoder.
5. (Original) The system of claim 1, further comprising:  
a network interface operable to provide at least a portion of a communication path interconnecting the receiver and a wide area communication network; and  
a communication module having a local area wireless transceiver.
6. (Original) The system of claim 1, wherein the premise network comprises installed coaxial cable.
7. (Original) The system of claim 1, further comprising a modem device selected from the group consisting of a cable modem, a dial-up modem, a wireless modem, a satellite modem, and an xDSL modem.
8. (Previously presented) The system of claim 1, further comprising a messaging engine operable to initiate communication of message information via the premise network, wherein the message information represents a message sent using a service selected from the group consisting of electronic mail, mobile alerts, IM, SMS, EMS, and MMS.
9. (Original) The system of claim 1, further comprising a metric engine operable to track a metric associated with the first video information stream, wherein the metric is selected from the group consisting of a video stream content rating, an amount of time associated with outputting the decoded first video information stream, a cost associated with viewing the first video information stream, and an assigned programming channel for the first video information stream.
10. (Original) The system of claim 1, further comprising a graphical user interface (GUI) engine operable to initiate presentation of a GUI on a television display communicatively coupled to the premise network.

11-19 (Canceled)

20. (Previously Presented) A video distribution system, comprising:

a plurality of remote controllable channel output modules, each configured to output a signal modulated to an assigned frequency block associated with a particular user, the signal representing a decoded version of a selected MPEG video stream; an access engine to authenticate a user of a remote control mechanism, wherein the access engine authenticates that the user is associated with the assigned frequency block; and a premise network interface operable to output a composite signal to a premise network, the composite signal comprising a modulated signal from at least one of the plurality of remote controllable channel output modules.

21. (Original) The system of claim 20, wherein the premise network comprises a wireless local area network.

22. (Original) The system of claim 20, wherein the premise network comprises coaxial cable.

23. (Original) The system of claim 20, wherein the assigned frequency block for a first of the remote controllable channel output modules comprises a range of approximately 60 to 66 MHz, the assigned frequency block for a second of the remote controllable channel output modules comprises a range of approximately 66 to 72 MHz, and the assigned frequency block for a third of the remote controllable channel output modules comprises a range of approximately 76 to 82 MHz.

24. (Original) The system of claim 20, wherein the assigned frequency blocks correspond to portions of the Very High Frequency spectrum assigned to television channels.

25. (Canceled)

26. (Original) The system of claim 20, further comprising a first remote controllable channel output module fixed to output information to one assigned frequency block.

27. (Original) The system of claim 20, further comprising a table mapping each of a plurality of viewers to at least one assigned frequency block.

28. (Original) The system of claim 20, further comprising a graphical user interface (GUI) engine operable to initiate presentation of a GUI on a television display communicatively coupled to the premise network, wherein the GUI engine is further operable to initiate display of a GUI element indicating video programs represented by the selected MPEG video stream output by each of the plurality of remote controllable channel output modules.

29. (Previously Presented) A method of facilitating video distribution, comprising:  
linking a plurality of users with associated carrier frequencies;  
receiving a first command from a first user;  
authenticating that the first user is associated with a first carrier frequency;  
modulating a decoded video stream identified by the first command on the first carrier frequency; and  
outputting the modulated stream to a premise network such that the first user can access the modulated stream by tuning a premise network connected television to the first carrier frequency.

30. (Canceled)

31. (Previously Presented) The method of claim 29, further comprising:  
receiving a second command from a second user;  
modulating a second decoded video stream identified by the second command on a second carrier frequency, wherein the second carrier frequency is associated with the second user; and  
outputting the modulated second stream to the premise network such that the second user can access the modulated stream by tuning a given premise network connected television to the second carrier frequency.

32. (Original) The method of claim 29, further comprising tracking a viewing metric of the first user.

33. (Original) The method of claim 29, further comprising disabling access to a certain video stream for at least one of the plurality of users.

34. (Previously Presented) The system of claim 1, wherein the access engine employs a password authentication scheme.

35. (Previously Presented) The system of claim 1, wherein the access engine employs a biometric authentication scheme.

36. (Previously Presented) The system of claim 1, wherein the access engine employs a device based authentication scheme.

37. (Previously Presented) The system of claim 1, wherein the remote control mechanism is a wireless telephone.

38. (Previously Presented) The system of claim 37, wherein the remote control mechanism has Bluetooth functionality.

39. (Previously Presented) The method of claim 31, further comprising:  
authenticating that the second user is associated with the second carrier frequency.

40. (Previously Presented) A method, comprising:  
linking a plurality of users with associated carrier frequencies;  
receiving a request for media content from a first user;  
modulating the media content on a carrier frequency associated with the first user; and  
outputting the media content on the carrier frequency to a premise network such that the  
first user can access the media content by tuning a premise network connected  
device to the carrier frequency associated with the first user.

41. (Previously Presented) The method of claim 40, further comprising:  
authenticating that the first user is associated with a first carrier frequency; and  
allowing only the first user to request different media content for the first carrier  
frequency.

42. (Previously Presented) The method of claim 41, further comprising:  
comparing the request for the media content to a block list associated with the first carrier  
frequency;  
notifying the first user that the requested media content will not be displayed.